From: Stuart Thiel
To: Microsoft ATR
Date: 1/15/02 10:00pm
Subject: Civil Action No. 98-1232 (CKK), etc.

This is my opinion on what I have read. I am 3rd year University student in the field of Software Engineering and a part time software consultant, software designer.

Regarding Sun's suggestions that the proposed civil action against Microsoft:
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    1 Fails to reduce the application barrier to entry that Microsoft was found to have illegally protected;
    2 Fails to remedy the injury done to the JavaTM technology community;
    3 Fails to remedy the illegal injury that Microsoft was found to have done to Netscape Navigator and the browser market;
    4 Fails to curtail Microsoft's illegal bundling of middleware programs including browsers, media players, and instant messaging software into the monopoly Windows operating system;
    5 Is ambiguous and subject to manipulation by Microsoft because it lacks an effective enforcement mechanism.
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I have little/no information regarding the first point. I would fully agree with the second point (being very interested in java developement). I would agree with the 3rd point, espescially considering Microsoft's habit of ignoring the majority of standards and modifying existing systems (Javascript) just enough that they have to be re-written to be IE specific (not to mention that they feel renaming it to DHTML and calling it a new language fixes that...). I have some difficulty agreeing with the 4th point as it clearly indicates in the proposed action that OEM and others may remove icons of Microsoft stuff stated above and add non-Microsoft software. I would agree with the enforcement issue. A firmer/clearer stance should be taken regarding enforcement as Microsoft is large enough to ignore tiny barbs.

With regards to the following sections of the proposed action (not properly quoted, but still getting the main idea):

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III.C.3

Microsoft shall not restrict by agreement any OEM licensee from exercising any of the following options or alternatives:
       * Launching automatically, at the conclusion of the initial boot sequence or subsequent boot sequences, or upon connections to or disconnections from the Internet, any Non-Microsoft Middleware if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time, provided that any such Non-Microsoft Middleware

displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product.

III.H.3

   1. Ensure that a Windows Operating System Product does not (a) automatically alter an OEM's configuration of icons, shortcuts or menu entries installed or displayed by the OEM pursuant to Section III.C of this Final Judgment without first seeking confirmation from the user and (b) seek such confirmation from the end user for an automatic (as opposed to user-initiated) alteration of the OEM's configuration until 14 days after the initial boot up of a new Personal Computer. Microsoft shall not alter the manner in which a Windows Operating System Product automatically alters an OEM's configuration of icons, shortcuts or menu entries other than in a new version of a Windows Operating System Product.

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Section III.C.3 seems to be saying that Microsoft may restrict OEMs from displaying a user interface completely dissimilar to that of Microsoft software. This is very wrong in that Microsoft then has control of the user interfaces developed, thus fortifying its monopoly position. I may have misunderstood this section, it seems ambiguous. I feel that it would be better to say that Microsoft has no right to restrict OEMs from using any software based on the user interface period.

Section III.H.3 has a section that states Microsoft software may modify an OEM configuration without warning after 14 days from initial boot-up. This is is clearly a bad idea. Whether 1 day, 14 days or 100 days from any point, software should not modify configurations of other software without warning (when automatically initiated) unless the original soft was intended to be updated in that manner possibly with specific intent to be modified by the modifying software exclusively or inclusively. Otherwise, we call the modifying software a virus. The exception to this, is the upgrading of OS or software that the modified software is based upon, in which case automatic modification of the original configuration should be allowed if it is necessary to continue the proper functionality of the software modified. Lastly, a clear definition needs to be made as to what the modification of a configuration is, as one could consider changing the order of icons a change in configuration given the existing proposed action (which would be false in my opinion).

Thank you.

Stuart Thiel